A Guide To Schedule C and Exemptions**

An INDIVIDUAL debtor is allowed to claim certain property as exempt. That means that a debtor may keep property of a certain value free from the reach of the bankruptcy trustee and free from the claims of creditors. The property may be real property, such as one's home, or it may be personal property such as clothing, a vehicle, furniture, cash, tax refunds, or an interest in a personal injury lawsuit, etc…. In order to exempt any property, it must be specifically listed on Schedule C. If it is not listed, it is not officially exempt. Note that a claim of exemption has no effect on valid liens. For example, a home mortgage or a car loan is still valid when the house or car is claimed as exempt.

There are two choices for exemptions in New York: those provided under federal law and those provided under New York State law. A debtor may choose to utilize either set of exemptions, but mixing federal and state exemptions is not permitted. You must choose one OR the other. Additionally, if husband and wife file jointly, both must claim federal exemptions or both must claim state exemptions.

Both federal and New York State exemption laws have exemptions for both real and personal property such as one's home, cash, clothing, cars, or personal injury lawsuits. Depending on which set you choose, you may be able to exempt more or less of your property.

NOTE: If you are going to claim exemptions under the federal statute, check the box on Schedule C for 11 U.S.C § 522(b)(2). If you are going to claim exemptions under state law, check the box on Schedule C for 11 U.S.C. § 522(b)(3). Note: to claim exemptions under New York State law, you must have been domiciled in New York for the 730 days immediately preceding the date you file the petition.

**This is only a general guide and should be used as such for limited informational purposes. It is not, nor should it be used as legal advice. You should consult an attorney for individual advice on filing and maintaining your case.